

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DATA  
#21

In re Application

Inventor(s): Terwilliger

Appln. No.: 10/035,083

Confirm. No.: 3945

Filed: December 28, 2001

Title: DELIVERY SYSTEM AND METHOD FOR  
INTERSTITIAL RADIATION THERAPY

PATENT APPLICATION

Art Unit: 3736

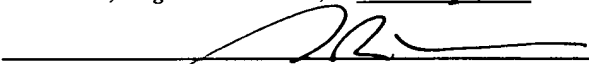
Examiner: J. Lacyk

Customer No. 23910

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Art Unit 2812, Alexandria, Virginia 22313-1450, on November 11, 2004.

  
\_\_\_\_\_  
(Attorney Signature)  
Sheldon R. Meyer, Reg. No. 27,660  
Signature Date: November 11, 2004  
12 Sam

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Art Unit 3736  
Alexandria, VA 22313-1450

Sir:

Applicant(s) hereby request(s) reconsideration of the patent term adjustment indicated in the Notice of Allowance dated August 11, 2004. This request is being submitted no later than the payment of the Issue Fee for the above application.

A check for the application fee pursuant to 37 C.F.R. §§ 1.18(e)-(f) is enclosed as follows:

<u>X</u>	Application fee for patent term adjustment due to examination delay under §1.705. \$200.00.
_____	Request for reinstatement of all or part of the patent term reduced under §1.704(b). \$400.00.

11/16/2004 DEMMANU2 00000059 10035083

04 FC:1455

200.00 0P

Applicants respectfully request that the USPTO review its determination of delay by Applicants based upon the facts and arguments presented below.

**SUMMARY:**

Review of the Notice of Allowance in the above-referenced application indicates an apparent error in the calculation of Patent Term Adjustment ("PTA") for this application. In particular, the Notice of Allowance indicates 0 days of PTA, and the Patent Application Retrieval System ("PAIR") system indicates a determination of 153 days of delay by Applicants during prosecution, and 19 day delay by the USPTO. A copy of the PAIR report for this application is submitted herewith as Exhibit A. Applicants believe that they did not delay prosecution of the above referenced patent application to the extent indicated by the USPTO, although Applicants' recommended correction, if made by the PTO at this time, would remain 0 days, assuming that the USPTO does not delay in issuing the allowed application. 37 C.F.R. §1.703 and § 1.704.

The discrepancy between Applicants' calculated PTA, and that indicated in the Notice of Allowance, appears to result from the PTO's determination that Applicants delayed 124 days (between May 14, 2003 and September 15, 2003) in filing the September 15, 2003 IDS (the "IDS"). Applicants respectfully submit that no delay should be attributed to Applicants for submission of the IDS. Applicants submitted the IDS within 30 days of receipt and knowledge of an International Search Report ("ISR") and therefore timely filed the IDS. Accordingly, Applicants respectfully request that the USPTO revise its calculation of delay by Applicants according to the relevant Rules and time considerations discussed below.

**Statement of Facts**

In accordance with § 1.705(b)(2), the following facts are set forth below:

1. The delay attributed to Applicants for delay in prosecution is 153 days. However, the delay should be reduced by at least 124 days, to 29 days. The PTA remains 0 days, because the delay attributed to the USPTO is 19 days, which is less than the alleged delay by Applicants.
2. Applicants received an ISR, dated August 27, 2003, in connection with its PCT filing corresponding to the present application. A copy of the transmittal sheet of the IRS received in the office of Applicants' patent counsel is submitted herewith as Exhibit B.
3. On September 10, 2003, Applicants mailed an IDS enclosing the August 27, 2003 ISR. As such, Applicants provided the IDS within thirty days of the mailing of the ISR. A copy of the IDS, including filing postcard as evidence of receipt by the USPTO, is submitted herewith as Exhibit C.
4. The USPTO received the IDS on September 15, 2003, which is within 30 days of the mailing of the ISR.

Pursuant to 37 C.F.R. section 1.704(d), the IDS is timely filed. Section 1.704(d) provides as follows:

A paper containing only an [IDS] in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution . . . of the application under paragraphs (c)(6), (c)(8), (c)(9), or

(c)(10) of this section if it is accompanied by a statement that each item of information contained in the [IDS] was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the [IDS].

On page 2 of the IDS, Applicants certify that the references cited in IDS were being cited to the USPTO within 30 days of a communication from a foreign patent office. See attached IDS, Exhibit B. Because the IDS was filed within 30 days of the IRS, the IDS is timely filed and there is no delay attributable to Applicants.

Based on the foregoing criteria, the delay by Applicants cannot include the 124 days attributed to Applicants because of untimely-filed IDS. The delay is only 153 days (i.e., the total days of Applicants' delay, as determined by the USPTO), less 124 days = 29 days.

Accordingly, Applicants respectfully submit that their prosecution delay should be re-calculated and should amount to no more than 29 days. Although the re-calculation does not affect the current PTA calculation of 0 days, the final determination of PTA has yet to be made, and will not be made until the instant allowed patent application issues as a patent. Should be USPTO delay issuance, the above calculation may result in PTA in Applicants' favor.

In addition to the above statement of facts:

\_\_\_\_\_ The above referenced application/patent is subject to a Terminal Disclaimer which expires on \_\_\_\_\_.

  X   The above referenced application/patent is not subject to a Terminal Disclaimer.

\_\_\_\_\_ Under § 1.704, there were no circumstances during the prosecution of the above referenced application/patent constituting a failure to engage in reasonable efforts to conclude processing or examination of such application.

  X   Under § 1.704, the period of adjustment of patent term is subject to a reduction by the following amount:

Amount of Term Reduction:       0 days      

Reason for Term Reduction: The term reduction is only 29 days, and not 124 days, no term reduction results and the PTA = 0.

### Conclusion

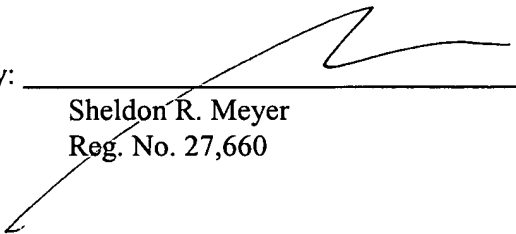
Applicant respectfully submits that an adjustment under 37 C.F.R. §1.703(f) of 0 days is proper, and that only 29 days of delay are attributable to Applicants. The delay by the USPTO is 19 days. Applicants

respectfully request that the USPTO review its determination of Applicants' delay in prosecution and of PTA in this application for accuracy.

The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: November 12, 2004

By:   
Sheldon R. Meyer  
Reg. No. 27,660

FLIESLER MEYER LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800

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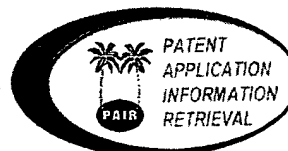
NOV 17 2004

**OFFICE OF PETITIONS**

# **EXHIBIT A**



United States Patent and Trademark Office

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**PATENT APPLICATION INFORMATION RETRIEVAL**

Patent Term Adjustment (PTA) for publication number: 10/035,083			
			Days
Filing or 371(c) Date:	12-28-2001	USPTO Delay (PTO):	19
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	153
Post-Issue Petitions (days):	+0	Total PTA:	0
USPTO Adjustment (days):	+0	Explanation of Calculations	

## Search Options

Assignments
Continuity Data
Display References
File History
Publication Review
Published Documents

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Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
08-11-2004	Mail Notice of Allowance		
08-09-2004	Notice of Allowance Data Verification Completed		
08-09-2004	Notice of Allowability		
04-05-2004	Reference capture on IDS		
04-05-2004	Information Disclosure Statement (IDS) Filed		
07-21-2004	Date Forwarded to Examiner		
04-05-2004	Request for Continued Examination (RCE)		
07-21-2004	Express Abandonment (for Entry of CPA / RCE / Rule129)		
04-05-2004	Workflow incoming amendment IFW		
04-05-2004	Workflow - Request for RCE - Begin		
02-08-2004	Workflow - Query Request - Begin		
01-22-2004	Receipt into Pubs		
01-22-2004	Workflow - File Sent to Contractor		
01-22-2004	Workflow - File Sent to Contractor		
01-21-2004	Receipt into Pubs		
01-17-2004	Issue Revision Completed		
01-17-2004	Dispatch to Publications		
01-12-2004	Mail Notice of Allowance		
01-12-2004	Notice of Allowance Data Verification Completed		
01-12-2004	Notice of Allowability		
01-02-2004	Date Forwarded to Examiner		
01-02-2004	Date Forwarded to Examiner		
12-19-2003	Request for Continued Examination (RCE)		

01-02-2004	Express Abandonment (for Entry of CPA / RCE / Rule129)		
12-19-2003	Workflow - Request for RCE - Begin		
09-15-2003	Information Disclosure Statement (IDS) Filed		124
10-03-2003	Mail Final Rejection (PTOL - 326)	19 ✓	↑
08-11-2003	Final Rejection	↑	↑
05-20-2003	Information Disclosure Statement (IDS) Filed	↑	↑
05-23-2003	Case Docketed to Examiner in GAU	↑	↑
05-14-2003	Information Disclosure Statement (IDS) Filed	↑	↑
05-23-2003	Date Forwarded to Examiner	↑	↑
05-14-2003	Response after Non-Final Action	↑	29 ✓
05-14-2003	Request for Extension of Time - Granted		↑
01-15-2003	Mail Non-Final Rejection		↑
01-13-2003	Non-Final Rejection		
12-18-2002	Case Docketed to Examiner in GAU		
04-06-2002	Application Dispatched from OIPE		
04-05-2002	Application Is Now Complete		
03-28-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		
03-28-2002	Additional Application Filing Fees		
01-31-2002	Notice Mailed--Application Incomplete--Filing Date Assigned		
01-30-2002	IFW Scan & PACR Auto Security Review		
01-17-2002	IFW Scan & PACR Auto Security Review		
12-28-2001	Initial Exam Team nn		

# **EXHIBIT B**



The U.S. PATENT Office date stamp and Serial No. (if a new application) sets forth the date of receipt of:

Applicant: TERWILLIGER

Patent/Serial No.: 10/035, 083

Issued/Filing Date: 12-28-01

Title: Delivery System AND METHOD FOR INTERSTITIAL RADIATION THERAPY

- ☐ Patent Application and \$ \_\_\_\_\_ fee
- Pages in Spec. \_\_\_\_\_ : No. of Claims \_\_\_\_\_
- ☐ CPA ☐ CIP ☐ CON ☐ DIV ☐ Provisional ☐ Request for Continued Examination
- ☐ No. of Sheets of Drawings \_\_\_\_\_ : ☐ Formal or ☐ Informal
- ☐ Non-Publication Request
- ☐ Preliminary Amendment
- ☐ Response to Notice for Missing Parts
- ☐ Assignment and Cover Sheet
- ☐ Declaration
- ☐ Power of Attorney
- ☐ Response
- ☐ Petition for Extension of Time ( \_\_\_\_\_ months)
- ☒ FEE: \$ 180.00
- ☒ Other: COPY OF INTERNATIONAL SEARCH REPORT  
(3) CITED DOCUMENTS
- ☐ Notice of Appeal
- ☐ Appeal Brief
- ☒ IDS
- ☒ Issue Fee Transmittal
- ☒ Transmittal Letter
- ☐ Certificate of Mailing
- ☐ Express Mail No. \_\_\_\_\_

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File No.: WORLD-1000451

Attorney/Secy: SRN/JAK/TMM

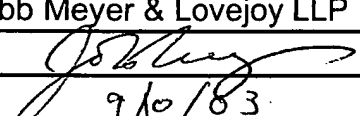
Date Mailed: Sept. 10, 2003

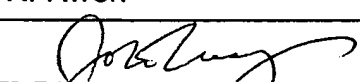
Date Due: —

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/035,083	<b>RECEIVED</b> <b>NOV 17 2004</b> <b>OFFICE OF PETITIONS</b>
	Filing Date	December 28, 2001	
	First Named Inventor	Richard A. Terwilliger	
	Art Unit	3736	
	Examiner Name	Joseph A. Cadugan	
Total Number of Pages in This Submission	n/a	Attorney Docket Number	WORLD-01000US1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input checked="" type="checkbox"/> Copy of Cited Document(s) <input checked="" type="checkbox"/> 1449 Form <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Copy of International Search Report Post Card
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	John K. Kwok Fliesler Dubb Meyer & Lovejoy LLP
Signature	
Date	9/10/03 Reg. No.: 46,851

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or printed name	John K. Kwok
Signature	
Date	9/10/03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Attorney Docket No.: WORLD-01000us1 SRM/JKK  
 JKwok/World/1000/1000us1/ids transmittal.pdf

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 180.00

## Complete if Known

Application Number 10/035,083  
Filing Date December 28, 2001  
First Named Inventor Richard A. Terwilliger  
Examiner Name Joseph A. Cadugan  
Art Unit 3736  
Attorney Docket No. WORLD-01000US1

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number  
Deposit Account Name

06-1325

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments  
☐ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims 80 -20\*\* = 60 X Fee from below = 0.00  
Independent Claims 10 -3\*\* = 7 X Fee from below = 0.00  
Multiple Dependent

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1202 18	2202 9	Claims in excess of 20	
1201 84	2201 42	Independent claims in excess of 3	
1203 280	2203 140	Multiple dependent claim, if not paid	
1204 84	2204 42	** Reissue independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)			(\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	180.00
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

## SUBMITTED BY

Name (Print/Type) John K. Kwok

Registration No. 46,851  
(Attorney/Agent)

(Complete if applicable)

Telephone 415.362.3800

Signature

Date

9/10/03

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Terwilliger, et al.

Appln. No.: 10/035,083

Confirm. No.: 3945

Filed: December 28, 2001

Title: DELIVERY SYSTEM AND METHOD FOR  
INTERSTITIAL RADIATION THERAPY

PATENT APPLICATION

Art Unit: 3736

Examiner: Joseph A. Cadugan

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 7/10/03.

John K. Kwok, Reg. No. 46,851

Signature Date: 7/10/03

(Attorney Signature)

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Art Unit 3736  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.

☐ The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required.

✓ The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed.

— The present application was filed prior to June 30, 2003; however, each item of information contained in the *Information Disclosure Statement* was previously submitted by the applicant in a parent application from which benefit under 35 U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), and, therefore, no copies of the cited documents are not enclosed. If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

✓ *PTA Statement under 37 C.F.R. §1.704(d).* Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

***This statement should be considered because:***

— 37 C.F.R. §1.97(b). This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

✓ 37 C.F.R. §1.97(c). Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).

-- OR --

☒ (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

(1) It is being filed on or before payment of the Issue Fee;

-- AND --

(2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);

-- AND --

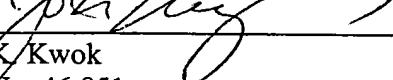
(3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

☒ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: 9/10/03

By:   
John K. Kwok  
Reg. No. 46,851

FLIESLER DUBB MEYER & LOVEJOY LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone (415) 362-3800

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# PATENT COOPERATION TREATY

Fliesler, Dubb, Meyer & L  
File: WORLD - 01000031  
Action Item: 47-19  
Date Due: September  
Critical Date: October  
Attorney Path: Sen  
Docketed By: JS  
Verified By: JS

From the INTERNATIONAL SEARCHING AUTHORITY

To:  
SHELDON R. MEYER  
FLIESLER DUBB MEYER & LOVEJOY LLP  
FOUR EMBARCADEMENT CENTER, SUITE 400  
SAN FRANCISCO, CA 94111-4156

PCT

## NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT OR THE DECLARATION

(PCT Rule 44.1)

Date of Mailing  
(day/month/year)

27 AUG 2003

Applicant's or agent's File Reference: WORLD - 01000031  
WORLD1000WO6

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No. Item: Intl Search Report for?

PCT/US02/34967 Date Due: September 26, 2003

International filing date  
(day/month/year)

01 November 2002 (01.11.2002)

Critical Date: November 27, 2003

Applicant  
TERWILLIGER, RICHARD A

Attorney Path: JSN/JSK

Docketed By: JSN

Verified By: JSN

1. ☒ The applicant is hereby notified that the international search report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34, chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
  - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

### 4. Reminders

Shortly after 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90 bis.1 and 90 bis.3, respectively, before the completion of the technical preparations for international publication.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the PCT Applicant's Guide, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US  
Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (703)305-3230  
Form PCT/ISA/220 (April 2002)

Authorized officer

Gregory Vidovich

Fliesler, Dubb, Meyer & Lovejoy

File: WORLD - 01000031

Action Item: Check

Date Due: September 27, 2003


Critical Date: September 27, 2003

Telephone No. 703-308-1148

Sheila H. Vandy  
Paralegal Specialist  
Tech. Center 3700

(See notes on accompanying sheet)

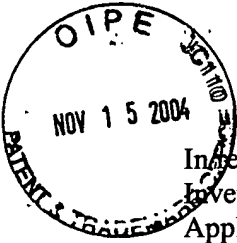




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In re Application  
Inventor(s): Richard A. Terwilliger  
Appl. No.: 10/035,083  
Confirm. No.: 3945  
Filed: 12/28/01  
Title: DELIVERY SYSTEM AND METHOD FOR  
INTERSTITIAL RADIATION THERAPY

PATENT APPLICATION  
Art Unit: 3736  
Examiner: John P. Lacyk  
Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Art Unit 3736, Alexandria, VA 22313-1450** on 11/12/04

Sheldon R. Meyer, Reg. No. 27,660  
Signature Date: 11/12/04

TRANSMITTAL LETTER

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Art Unit 3736  
Alexandria, VA 22313-1450

Sir:

***Transmitted with this communication are the following:***

- ☒ Part B - Fee(s) Transmittal (1 pg.);
- ☒ Application for Patent Term Adjustment (4 pgs);
- ☒ Check for fee in the amount of \$1200.00;
- ☒ Return Receipt Postcard.
- ☒ ***Fee Authorization.*** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

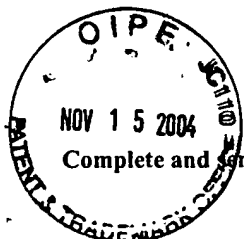
Respectfully submitted,

Date: 11/12/2004

By: [Signature]  
Sheldon R. Meyer, Reg. No.: 27,660

FLIESLER MEYER LLP  
Four Embarcadero Center, Suite 400  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800

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## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail****Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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**SAN FRANCISCO, CA 94111**

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

Sheldon R. Meyer	(Depositor's name)
<i>[Signature]</i>	(Signature)
11/12/04	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,083	12/28/2001	Richard A. Terwilliger	WORLD-01000US1 SRM	3945

TITLE OF INVENTION: DELIVERY SYSTEM AND METHOD FOR INTERSTITIAL RADIATION THERAPY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665 685	\$300	\$965 985	11/12/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
LACYK, JOHN P	3736	600-001000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

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(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Fliesler Meyer LLP

2  
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

**Ideamatrix, Inc.**  
**(undivided half interest)**

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

**Estes Park, Colorado****RECEIVED****NOV 17 2004****OFFICE OF PETITIONS**Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☒ Issue Fee☒ Publication Fee (No small entity discount permitted)☒ Advance Order - # of Copies 5 @ 3.00 each.

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 06-1325 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☐ b. Applicant is not claiming SMALL ENTITY status. See, e.g., 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

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(Authorized Signature) Sheldon R. Meyer (Date) 11/12/04

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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